



AFFIRMATIVE EMPLOYMENT PROGRAM (AEP) OVERVIEW






HISTORICAL PERSPECTIVE

For much of the last century, racial and ethnic minorities and women have confronted legal and social exclusion

Beginning in the 1940s, a series of Executive Orders and statutes were adopted to address a long history of employment discrimination in the federal government

Although progress was made after those actions, it was insufficient; Congress in 1972 determined that discrimination against federal employees continued and that it was necessary to provide federal employees needed protection

The President's July, 1995, Affirmative Action Review noted that one of the lingering effects of historical practices has been that minorities and women are still underrepresented at higher grade levels

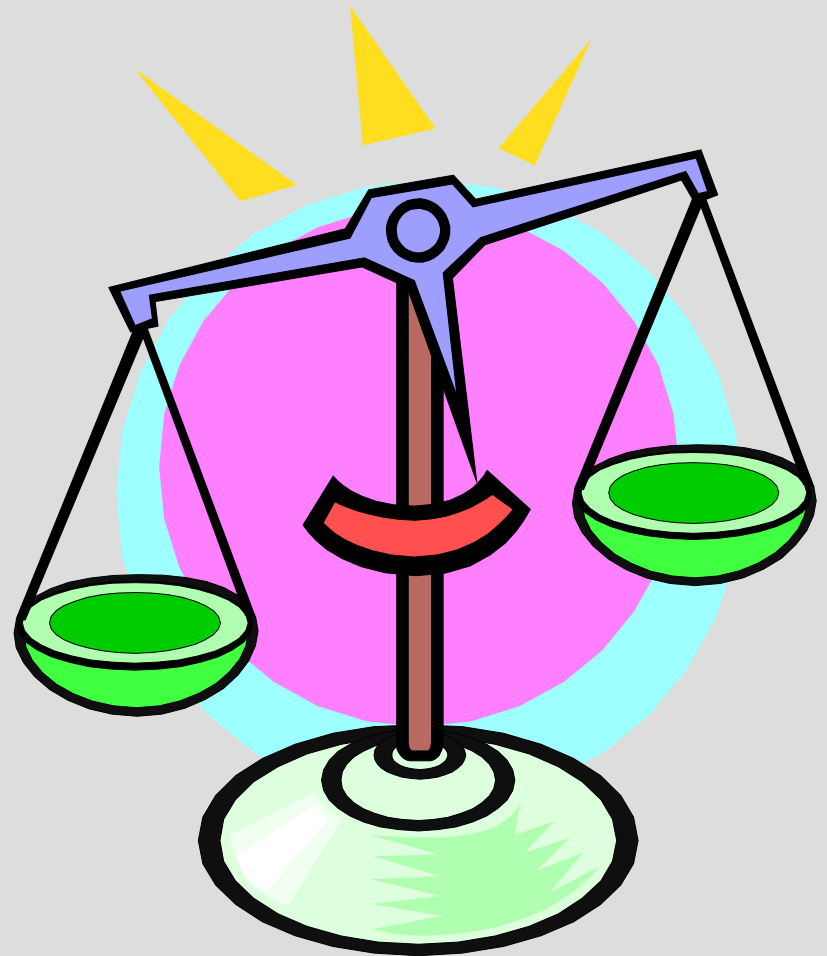


EEOC is mandated to enforce laws ensuring EEO for all

Goal of laws - ensure that all Americans are judged on their ability to do the job and not on personal characteristics

14th Amendment to the Constitution promised that all Americans have a right to equal protection under the law

Through 1614, Congress acknowledged that, for certain Americans, historic discrimination had created barriers of the promise of EEO





Extent of permissible affirmative action is strictly limited under the law. Only lawful when:

Designed to respond to demonstrated imbalance in the work force

Is flexible

Time-limited

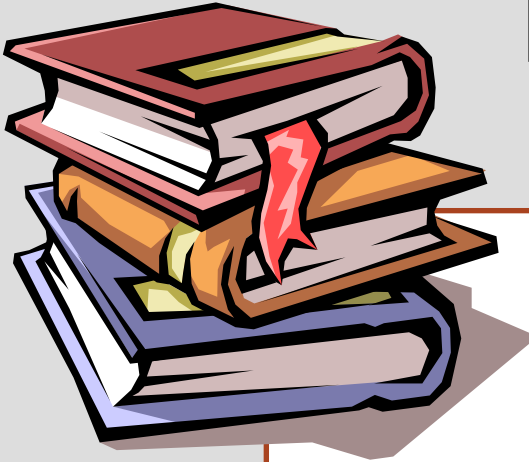
Applied only to qualified individuals

Respects rights of non-minorities

Not a quota system



RELEVANT CASE LAW



Adarand v. Pena

Bragdon v. Yeutter

Hazelwood School District v. United States

Johnson v. Transportation Agency






Adarand v. Pena - An Overview


The Supreme Court held the use of race-based affirmative action measures by the federal government requires strict scrutiny - not a constitutional bar

Two elements of strict scrutiny include compelling governmental interests and narrow tailoring

Agencies may voluntarily use race in employment actions if there is a 'gross statistical disparity' between the level of minority participation in a particular job category and the percent of qualified minorities in the applicable labor pool for the relevant geographic market

Ensure use of numerical goals are not converted into rigid requirements (quotas). Goals establish only a numerical objective to be attained through an agency's best efforts; quotas require selection of a specific number of minorities without regard to qualification, availability, or application rates





Bragdon v. Yeutter - An Overview

Involved the reliance upon an affirmative action plan as a justification for the intentional utilization of race and sex as selection factors

Determined three components of an AEP that make it valid:

Purpose of the plan must be to break down old patterns of segregation and hierarchy and open up employment opportunities for protected groups

Plan must not create an absolute bar to the advancement of non -minority employees, or otherwise trammel the interests of those employees

Plan must be temporary in the sense that it is designed to attain, not to maintain, a balance among affected classes






Hazelwood v. United States - An Overview

Key issue involved determining what figures would provide the most accurate basis for comparison to the hiring figures

Court held proper comparison was between the racial composition of the employer's staff and the qualified public school teacher population in the relevant labor market

It was error to measure it against the percentage of Blacks in the school population





Johnson v. Transportation Agency

Decision to hire was made pursuant to an Agency plan that directed that sex or race be taken into account for the purpose of remedying underrepresentation

Plan set aside no specific number of positions for minorities or women, but required short range goals be established and adjusted annually

Court held that the Agency appropriately took into account appellants sex as one factor in making hiring decision because the plan represented a moderate, flexible, individualized approach to affecting a gradual improvement in the representation of minorities and women in the work force



REGULATORY GUIDANCE

**Section 717, Title VII of the Civil Rights Act of
1964**

EEOC Management Directive 715, 1 Oct 03

Section 501 of the Rehabilitation Act of 1973

AEP IS OPPORTUNITY - NOT MANDATORY SELECTION

Affirmative employment is about efforts to make possible equitable representation in the organization at all grade levels - not preferential hiring

Based on something to strive for and not a guarantee

Provides opportunity to look at policies, practices, and procedures to ensure fairness and not just policies for selected individuals



MAKING A DIFFERENCE



Commitment from top management

EEO officers need access and credibility

Recommendations of EEO must be taken seriously

EEO is kept in the loop

Affirmative Employment = Plan
How are we going to achieve diversity?

THE AEP SUCCESS FORMULA



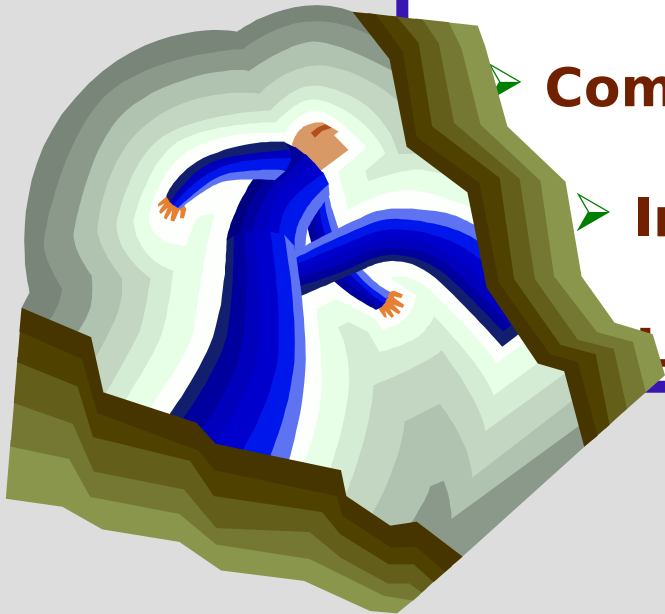
- **Market**
- **Educate**
- **Train**
- **Evaluate**
- **Reward**
- **Network**



BARRIERS



- **Organizational Placement of EEO**
- **Lack of Support from Leadership**
- **Complaint Focused Program**
- **Inadequate Resources**
- **Lack of Accountability**



Elements of an AEP Plan

**Organization and
Resources**

Work Force

**Discrimination
Complaints**

**Recruitment and
Hiring**



**Employee
Development
Programs**

Promotions

Separations

**Program
Evaluations**

OUR JOB

Efficient and effective use of automated tools

Include all employees in analysis to include disabled

Ensure performance indicators are measurable

AEP plans are both goal and results - oriented

Conduct impact analysis during downsizing



Not about quotas

Concerns access

**Addresses inclusion
qualified**

**Equal Opportunity
Values**

**Tapping into diverse
applicant sources**

**Reaching Out
People**

Program Ownership

Promoting Diversity



Is about people

Developing people

**Competent,
applicants**

Organizational

Retaining People

Compensating

Fair Appraisals

Involving Others

MAKE A DIFFERENCE !

**PLANT THE SEED
AND ALLOW FOR
CONTINUED
ORGANIZATIONAL
GROWTH**

